

**REMARKS**

This Amendment is in response to the Final Office Action mailed August 19, 2003 and is submitted along with a Request for Continuing Examination (RCE). Claims 1 and 5 have been amended. Claims 36-38 have been added. Claims 34 and 35 have been canceled. No new matter has been added. The headings below correspond to the section under which the claims were rejected in the Office Action.

**102(e)**

Claims 1-3, 5-9, 34, and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6264687 to Tomonto (Tomonto). The Final Office Action points to the 102(e) rejection presented in the Office Action mailed February 26, 2003.

Claims 1-3, 5-9, 34, and 35 require the presence of a balloon expandable portion and a self-expanding portion. The Office Action states that Tomonto discloses a stent having three balloon expandable, but not self-expanding segments, as shown in Figure 2. The Office Action further states there are two self-expanding segments located between the balloon expandable segments. Applicant has amended claims 1 and 5. Claims 34 and 35 have been canceled.

Claim 1 has been amended via the inclusion of punctuation to improve the readability of the claim. This amendment does not limit the scope of the claim. Claim 1 has also been amended to recite that the stent has an interior surface, which bounds a lumen, an exterior surface and a sidewall extending therebetween and that the sidewall comprises a plurality of segments, each of which extends in its entirety from the interior surface to the exterior surface. The segments include a balloon expandable segment and a self-expanding segment. A first self-expanding segment consists essentially of a self-expanding material.

The Tomonto reference does not teach or suggest this. Tomonto discloses balloon expandable material which is disposed atop super-elastic material. To the extent, for the sake of argument, that Tomonto were to be construed as having balloon expanding segments including "balloon expandable cells" and "self-expanding segments including self-expanding cells", the "balloon expandable segments" do not extend in their entirety from the interior surface to the exterior surface of the stent. Rather, they extend from the superelastic layer to the exterior of the

stent. Similarly, the "self-expanding segments" would not extend from the interior surface of the stent to the exterior surface nor does a first self-expanding segment consist essentially of a self-expanding material. Moreover, there is no suggestion in Tomonto to provide these missing elements.

Regarding claim 5, claim 5 has been amended to recite that the balloon expandable material and the self-expanding material do not overlap one another in a radial direction. This limitation is not met by Tomoto. The balloon expandable material of Tomoto overlaps the superelastic materials in multiple locations along the Tomonto stent. There is no suggestion in Tomonto to modify the Tomonto stent so that the balloon expandable material does not overlap the self-expanding material.

In light of the above arguments, Applicant believes the 102(e) rejection is improper and respectfully request that the rejection of claims 1-3 and 5-9 be withdrawn.

#### **CONCLUSION**

In view of the foregoing it is believed that the present application, with pending claims 1-3, 5-9, and 36-38, is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

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